

## SENATE BILL NO. 296

INTRODUCED BY BLACK, BALES, ESSMANN, HANSEN, ROUSH, TESTER, TROPILA, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE METHOD FOR THE OWNER OF A ~~NONCONTIGUOUS~~ PARCEL OF LAND OF 20 ACRES OR MORE BUT LESS THAN 160 ACRES TO HAVE THE PARCEL VALUED, ASSESSED, AND TAXED AS AGRICULTURAL LAND UNDER CERTAIN CONDITIONS; AMENDING SECTION 15-7-202, MCA; AND PROVIDING ~~AN~~ A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-7-202, MCA, is amended to read:

**"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) ~~Noncontiguous parcels~~ PARCELS of land of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

1 (A) applies to the department requesting ~~certification~~ CLASSIFICATION of the parcel as agricultural; and

2 (B) verifies that: THE PARCEL OF LAND IS GREATER THAN 20 ACRES BUT LESS THAN 160 ACRES AND THAT THE  
3 PARCEL IS LOCATED WITHIN 15 AIR MILES OF THE FAMILY-OPERATED FARMING ENTITY REFERRED TO IN SUBSECTION  
4 (1)(B)(III)(C); AND

5 (C) VERIFIES THAT:

6 (I) the OWNER OF THE parcel is INVOLVED in agricultural production by submitting proof that 51% or more  
7 of the owner's MONTANA annual gross income is derived from agricultural production; AND

8 (II) property taxes on the property are paid by a family corporation, family partnership, sole  
9 proprietorship, or family trust THAT IS INVOLVED IN MONTANA AGRICULTURAL PRODUCTION AND 51% OF THE ENTITY'S  
10 MONTANA ANNUAL GROSS INCOME IS DERIVED FROM AGRICULTURAL PRODUCTION; OR

11 (III) ~~the property is not subject to a homestead exemption.~~ THE OWNER IS A SHAREHOLDER, PARTNER,  
12 OWNER, OR MEMBER OF THE FAMILY CORPORATION, FAMILY PARTNERSHIP, SOLE PROPRIETORSHIP, OR FAMILY TRUST  
13 THAT IS INVOLVED IN MONTANA AGRICULTURAL PRODUCTION AND 51% OF THE PERSON'S OR ENTITY'S MONTANA ANNUAL  
14 GROSS INCOME IS DERIVED FROM AGRICULTURAL PRODUCTION.

15 (c) For the purposes of this subsection (1):

16 (i) "marketing" means the selling of agricultural products produced by the land and includes but is not  
17 limited to:

18 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other  
19 agricultural purposes; and

20 (B) rental payments made under the federal conservation reserve program or a successor to that  
21 program;

22 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or  
23 is contiguous to land under the same ownership that is classified as agricultural land, other than land described  
24 in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

25 (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that  
26 are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each  
27 year that the parcels meet any of the following qualifications:

28 (a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than  
29 \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

30 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent,

1 intervening causes of production failure beyond the control of the producer or marketing delay for economic  
2 advantage, in which case proof of qualification in a prior year will suffice.

3 (3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified  
4 or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder  
5 in compliance with the Montana Subdivision and Platting Act.

6 (4) Land may not be classified or valued as agricultural if it is subdivided land with stated restrictions  
7 effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only, "subdivided  
8 land" includes parcels of land larger than 20 acres that have been subdivided for commercial or residential  
9 purposes.

10 (5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide  
11 agricultural enterprise is not considered a bona fide agricultural operation.

12 (6) The department may not classify land less than 160 acres as agricultural unless the owner has  
13 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which  
14 no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c). If land has  
15 been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and  
16 taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation  
17 pursuant to 15-7-111.

18 (7) For the purposes of this part, growing timber is not an agricultural use."  
19

20 NEW SECTION. Section 2. Effective date -- APPLICABILITY. [This act] is effective July 1, 2005 JANUARY  
21 1, 2006, AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2005.

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